

April 1, 2022

Honorable Erica Barker
Secretary
Postal Regulatory Commission
901 New York Avenue, NW, Suite 200
Washington, DC 20268-0001

Dear Ms. Barker:

Pursuant to 39 U.S.C. § 407(d)(2), and consistent with Order No. 5966 in Docket No. CP2021-128, where the Postal Regulatory Commission (Commission) reviewed inbound EMS rates scheduled to take effect January 1, 2022,¹ the United States Postal Service (Postal Service) files as Enclosure 1 to this letter a redacted copy of an EMS rate agreement between the Postal Service and a foreign postal operator (Agreement). The Postal Service has marked the nonpublic, unredacted version of this Agreement as “Confidential” and “Non-Public” and has filed it under seal because it contains information considered confidential and commercially sensitive by the affected postal operator and the Postal Service.

The Postal Service considers certain portions of the Agreement filed in this matter to be protected by Freedom of Information Act (FOIA) Exemptions 4 and 3 coupled with 39 U.S.C. § 410(c)(2), and therefore not subject to mandatory disclosure under FOIA. Consequently, the Postal Service requests that the redacted portions of the Agreement remain confidential and incorporates by reference the Application for Non-Public Treatment filed with the Postal Service’s initial Notice in Docket No. CP2021-128.² In addition, we respectfully request that the Commission coordinate with the Postal Service in the event that this Agreement becomes the subject of a FOIA request, so that we can engage in appropriate consultations with the affected postal operator.

¹ PRC Order No. 5966, Order Approving Changes In Prices Not Of General Applicability For Inbound EMS 2, August 20, 2021. This is also consistent with the practice under PRC Order No. 1865 granting the Postal Service’s Motion for Reconsideration of Order No. 1822 in PRC Docket No. CP2013-77. See PRC Order No. 1865, Order Granting Motion for Reconsideration of Order No. 1822, Docket No. CP2013-77, October 30, 2013.

² Notice of the United States Postal Service of Filing Changes in Rates Not of General Applicability for Inbound EMS 2, and Application for Non-Public Treatment, Docket No. CP2021-128, August 10, 2021, at Attachment 1 (Application of the United States Postal Service for Non-Public Treatment).

Thank you for your attention to this matter. If you have any questions, please do not hesitate to contact me.

Sincerely,

/s/

Mikhail Raykher
Attorney
Global Business & Service Development

Enclosure

ROBERT H. RAINES JR.
MANAGING DIRECTOR, GLOBAL BUSINESS



March 7, 2022

[REDACTED]

[REDACTED]

I am writing to provide you with the 2022 EMS [REDACTED] for your review and acceptance. These rates are applicable only for EMS volume exchanged in calendar year 2022.

In the interest of growing the exchange of EMS items between [REDACTED] and the United States Postal Service (USPS), we would like to propose [REDACTED]

Pursuant to UPU IB Circular 49 issued on April 9, 2018, the U.S. Government requires the transmission of ITeM ATtribute (ITMATT) (in conformity with the latest versions of UPU standard M33, as updated from time to time) from all its EMS partners for all EMS items sent to the U.S. as a condition of acceptance. Each individual item's S10 identifier also must be included in a PRE-advice of DESpatch (PREDES) message (in conformity with the latest versions of UPU standard M41, as updated from time to time) sent to USPS and must be electronically linked (nested) to the S9 identifier of the receptacle containing that item. In addition, on October 24, 2018, the U.S. Government enacted the Synthetics Trafficking and Overdose Prevention (STOP) Act. Among other things, this law (19 U.S.C. § 1415(a)(3)(K)(vi)) mandates that 100 percent of inbound shipments containing goods—which includes express, parcels, tracked packets, and untracked packets—be accompanied by advance electronic data (EAD). EAD includes both PREDES and ITMATT nested to the receptacle. Without having the PREDES data coupled with the ITMATT data, United States Customs and Border Protection cannot as successfully target shipments to identify packages containing illicit goods. As noted in the IB Circular 116 issued on August 26, 2020 and the IB Circular 217 issued on December 21, 2020, and unless U.S. Customs and Border Protection has excluded a country of origin from these requirements, failure to meet the above EAD requirements will result in the return of your shipments destined to the United States.

[REDACTED]

Based on the above proposal, [REDACTED]

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[REDACTED]

Please also note that the rate proposal included in this letter agreement is valid for calendar year 2022 only and will not be applied for any EMS items received after December 31, 2022. The rates for EMS items destined for the U.S. that the UPU IB publishes in its Circulars for 2022, and for subsequent years, [REDACTED] without an agreement signed by both USPS and [REDACTED] in advance of the specific time periods to which [REDACTED] would apply.

The USPS and [REDACTED] also agree that:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

The pricing set forth in this letter agreement may be reviewed by the Postal Regulatory Commission (PRC), an independent U.S. government agency. After [REDACTED] provides USPS its written acceptance of the proposals in this letter agreement, the USPS shall furnish this instrument to the PRC. Any pricing in this instrument may be subject to review and/or non-objection by the PRC. In the event of any adverse outcome associated with the regulatory review of the prices in this instrument, the rates for EMS items exchanged between [REDACTED] and USPS in 2022 will continue to be the rates as indicated in the applicable UPU IB circular for 2022. USPS will notify [REDACTED] should there be any issues with regulatory review of the instrument.

Under U.S. law, the USPS is also required to file all commercial agreements signed with an agency of a foreign government, including this letter agreement, with the PRC. The USPS believes that it is possible that your organization may have a proprietary interest in information in this letter agreement. Because we consider it to be sensitive commercial information, we will designate the letter agreement as "non-public." In other words, some of the information in the letter agreement will not be publicly available on the PRC's website; rather, it will be available only to the PRC staff and third persons who are able to certify that they are not involved in competitive decision making.

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Under U.S. law (Title 39, Code of Federal Regulations, Part 3011), whenever the USPS files information non-publicly, the USPS is required to notify any organization that may have an interest in the nonpublic information that it is filing such information with the PRC, together with an application for the PRC to treat the information as non-public material. As required by its regulations, we will identify the USPS as the PRC's point of contact in the event that additional notices need to be sent concerning this filing. This is done to protect your confidentiality. USPS will inform you of any such notices it receives.

We are also required to notify you that your organization may address any confidentiality concerns that you may have directly with the PRC. At this time, we do not believe any action is needed on the part of your organization. The procedure for making an application to the PRC for non-public treatment of materials believed to be protected from disclosure will be found at Title 39, U.S. Code of Federal Regulations, Part 3011, including Sections 3011.201 and 3011.204. The procedure is also available on the PRC's website at <https://www.prc.gov/sites/default/files/Title39/Introductory%20Statement.pdf>.

Again, we do not believe there is any need for action on your part; we are simply fulfilling our obligation to give your organization notice of the non-public filing, as required by U.S. law. If you have any questions or concerns, please feel free to contact Mikhail Raykher, Attorney, U.S. Postal Service Law Department, at 202-268-4277 or via e-mail at mikhail.raykher@usps.gov.

Please confirm your acceptance of the above [REDACTED] rates by March 11, 2022 by counter signing below and returning a copy of this signed letter agreement by email to Ms. Nakesha Kemp-Hirst at nakesha.e.kemp-hirst@usps.gov and a copy to EMSrates@usps.gov. Please mail the original copy back to:

Robert H. Raines, Jr.
Managing Director, USPS
475 L'Enfant Plaza SW RM 5100
Washington, DC 20260-0004

We look forward to continuing to grow the important EMS business between us.

Sincerely,


Robert H. Raines, Jr.

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On behalf of [REDACTED] I agree that the terms and conditions set forth in this letter agreement constitute the terms and conditions agreed upon with USPS for EMS items exchanged between [REDACTED] and USPS for calendar year 2022.

